

United States Courts
Southern District of Texas
FILED Criminal Complaint

SL2 7/6/18

JUL 06 2018

UNITED STATES DISTRICT COURT

Sealed

Public and unofficial staff access
to this instrument are
prohibited by court order

David J. Bradley, Clerk of Court

for the
Southern District of Texas

United States of America

v.

James Robert Tumlinson

Case No.

H18-1066M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of February 1, 2018-March 13, 2018 in the county of San Jacinto in the
Southern District of Texas, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 USC 2251(a) &(e)	Production of Child Pornography
18 USC 2252A(a)(5)(B)	Receipt of Child Pornography
18 USC 2252A	Possession of Child Pornography

This criminal complaint is based on these facts:

See attached Affidavit.

☒ Continued on the attached sheet.



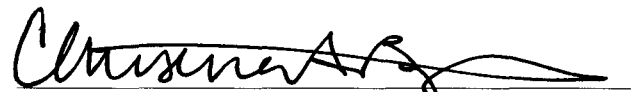
Complainant's signature

Robert J. Guerra, FBI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

July 6, 2018


Judge's signature

City and state:

Houston, Texas

Christina A. Bryan, USMJ

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Robert J. Guerra, being duly sworn, depose and state:

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI), assigned to the Special Agent in Charge (SAC), in Houston, Texas. I have been so employed since November 2005. As part of my daily duties as an FBI agent, I am assigned to the FBI Houston Child Exploitation Task Force which, among other things, investigates criminal violations relating to child exploitation and child pornography, including violations pertaining to the illegal production, distribution, receipt and possession of child pornography, in violation of 18 U.S.C. §§ 2251, 2252A and 2252A et seq. I have received training in the area of child pornography and child exploitation. I have had the opportunity to observe and review numerous examples of child pornography in all forms of media including computer media. Child Pornography, as defined in 18 U.S.C. § 2256, is:

“any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where – (A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; . . . [or] (C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.” For conduct occurring after April 30, 2003, the definition also includes “(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from that of a minor engaging in sexually explicit conduct.”

2. This Affidavit is made in support of a criminal complaint charging James Robert TUMLINSON with violating 18 U.S.C. § 2252A(a)(2) & (a)(5)(B) (receipt and possession of child pornography) and 18 U.S.C. § 2251(a) & (e) (Production of child pornography).
3. I am familiar with the information contained in this Affidavit based upon the investigation I have personally conducted and my conversations with other law enforcement officers involved in this investigation, or who have engaged in numerous investigations involving child pornography.

4. Because this Affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation, I have set forth only those facts that I believe are necessary to establish probable cause that evidence of a violation of 18 U.S.C. § 2252A(a)(2) & (a)(5)(B) (receipt and possession of child pornography) on or about March 13, 2018, and 18 U.S.C. § 2251(a) & (e) (Production of child pornography) on or about February 1, 2018, has been committed by James Robert TUMLINSON. Where statements of others are set forth in this Affidavit, they are set forth in substance and in part.
5. On February 23, 2018, Amanda Crocker contacted the San Jacinto County Sheriff's Office (SJCSO) to report that her 7 year old daughter (MV1), had made an outcry of sexual abuse. MV1 was subsequently interviewed by a child forensic interviewer. MV1 stated she and her 6 year old brother (MV2) visited with James Robert TUMLINSON in an RV type trailer parked in the yard of the residence located at 950 Joyce Street, Shepard, Texas.
6. During the interview, MV1 made several comments in regards to sexual abuse perpetrated on her by her father, James Robert TUMLINSON. MV1 stated her brother was "too scared" to tell, but she was not. MV1 went on to say that TUMLINSON told MV2 to "suck it" (referencing TUMLINSON's penis) and that TUMLINSON made MV2 "do it" (perform oral sex). When MV1 was asked why she was at the interview, MV1 stated, "because daddy did something wrong".
7. MV1 stated TUMLINSON made her suck his "bad spot" (referencing TUMLINSON's penis) and MV2 as well. MV1 stated TUMLINSON took off all of her clothes off including her tights, panties and shirt. MV1 stated TUMLINSON would pull out his penis and put it in her "front hole" (referring to MV1's vagina) and that it hurt. MV1 stated TUMLINSON did this to her on the couch and also when he is done, he pees in her mouth. MV1 also told the interviewer that TUMLINSON put his bad spot in her butt and it hurt. MV1 gave detailed descriptions of anal sex, oral sex, and

vaginal sex which has appeared to occur on a regular basis for several months. MV1 could not recall how long her and MV2 were forced to participate in such activities with James Robert TUMLINSON.

8. Based on the above information, SJCSO Detective Sergeant Tim Kean applied for and obtained a State search warrant for the residence of James Tumlison located at 950 Joyce Street, Shepard, Texas on March 13, 2018, seeking evidence of criminal activity, namely Continuous Sexual Abuse of a Child and Promotion of Child Pornography. During the execution of said search warrant, several items were discovered and seized by the SJCSO search team.
9. On April 12, 2018, United States Magistrate Judge Frances H. Stacy signed a federal search warrant granting the search of all the digital media devices seized by the SJCSO in the pursuit of child exploitation material to include the possession, receipt and production of child pornography.
10. On April 26, 2018, SA Guerra was able to complete a review of the digital media items referenced above. SA Guerra found approximately 6 video files of child pornography depicting MV1 believed to be produced by TUMLINSON. SA Guerra also found approximately 2 video files of child pornography depicting MV2, which is also believed to have been produced by TUMLINSON. Lastly, SA Guerra found approximately 6,585 image files and 1,322 video files depicting child pornography.
11. SA Guerra believes, based on his training and experience, that all of the files mentioned above are child pornography as defined in Title 18, United States Code, Section 2256. The content of 3 of the child pornography files to include 1 video file depicting MV1 and 1 video file depicting MV2, believed to be produced by TUMLINSON are described as follows:

a) **wet dreams.mp4.mpg** - This is a video file that is 1 minute and 18 seconds in length, depicting a minor female, who appears to be sleeping. The child appears to be between 9-12

years of age. An adult male can be seen masturbating and then ejaculating into the partially open mouth of the child.

b) **IMG 2738.mov** – This a video files that is 15 minutes and 2 seconds in length, depicting a minor female, who appears to be under the age of 8, being orally penetrated by an adult male's penis. The child appears to be unconscious and covered by what appears to be a fuzzy blanket with different shades of pink. The minor female depicted in this video has been identified as MV1.

c) **IMG 0116.mov** – This is a video file that is 30 seconds in length, depicting a minor male child, who appears to be under the age of 6, being anally penetrated by an adult male's penis. The minor male appears to be bent over a cushion with wooden cabinets underneath. The adult male can be heard telling the child "relax" and "this will be over in a minute". The minor male depicted in the video has been identified as MV2.

12. SA Guerra has obtained the photos taken by the SJCSO during the execution of the search warrant of the residence belonging to TUMLINSON for review and comparison. SA Guerra also obtained photos of MV1, MV2 and close-up photos depicting TUMLINSON's hands, all of which were taken by the SJCSO.
13. SA Guerra reviewed the pictures depicting the hands belonging to TUMLINSON and compared them to the hands depicted in the child pornography videos believed to have been created by TUMLINSON. In several of the child pornography videos, the adult male's right hand has a visible scar and the same scar is clearly visible in the photographs obtained by the SJCSO.
14. SA Guerra reviewed the pictures depicting MV1 to the minor female depicted in the child pornography videos believed to have been produced by TUMLINSON. The face of the minor female is shown throughout the majority of the child pornography video believed to have been produced by TUMLINSON. The minor female depicted in the child pornography videos has been identified as

MV1 based of a facial comparison. MV1 also has a visible scar on the right side of her face. The same scar is clearly visible in at least one child pornography video found.

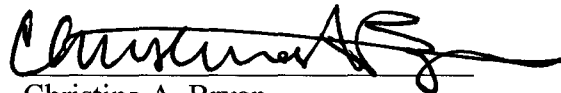
15. SA Guerra reviewed the pictures depicting MV2 to the minor male depicted in the child pornography videos believed to have been produced by TUMLINSON. MV2 has 3 distinct moles on his back. The same 3 moles are clearly visible in at least one video depicting child pornography believed to have been produced by TUMLISON. MV2 also has silver caps on his front teeth, the same silver caps can be seen in at least one video depicting child pornography believed to have been produced by TUMLINSON.

16. Based upon the information delineated above, I believe that probable cause exists for the issuance of a Criminal Complaint charging James Robert TUMLINSON with a violation of 18 U.S.C. § 2252A(a)(2) & (a)(5)(B) (receipt and possession of child pornography) and 18 U.S.C. § 2251(a) & (e) (Production of child pornography).



Robert J. Guerra
Special Agent, FBI

Subscribed and sworn before me this 6th of July 2018, and I find probable cause.



Christina A. Bryan
United States Magistrate Judge